

In The United States District Court
For The Western District of Massachusetts

Julio Toledo, et. al.

PLAINTIFFS

v.

IBPO, Local 364,

DEFENDANT

CIVIL ACTION NO.: 04-CV-30163-MAP

PLAINTIFFS' EMERGENCY MOTION TO ADD A PARTY

Now come the Plaintiffs, and pursuant to this Court's authority under Federal Rules of Civil Procedure 19 and 21, Plaintiffs request leave from this Court to add the City of Springfield Police Department as a defendant in this case for purposes of Plaintiff's Motion for Temporary Restraining Order and Injunctive relief.

Although Plaintiffs believe that such action is not necessary because this Court has the power to grant full and adequate relief through a Temporary Restraining Order and Injunctive Relief against Defendants, Plaintiffs file this motion to remove any doubt on the question. Counsel for the City of Springfield Police Department has already conveyed to Plaintiffs' counsel his interest in joining this case.

Under Federal Rule of Civil Procedure 19, "[a] person . . . shall be joined as a party in the action if . . . in the person's absence complete relief cannot be accorded among those already parties." Fed. R. Civ. P. 19(a). "If the person has not been so joined, the court *shall order* that the person be made a party." *Id.*

Under Federal Rule of Civil Procedure 21, “[p]arties may be dropped or added by order of the court on motion of any party or of its own initiative at any stage of the action and on such terms as are just.” Fed. R. Civ. P. 21.

The grounds for said motion are more fully set in the attached memorandum.

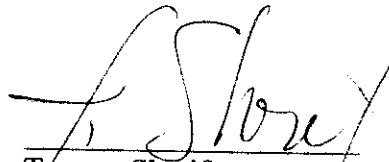
CONCLUSION

For the reasons stated, this Court should grant Plaintiffs’ motion to add City of Springfield Police Department as a defendant in this case for purposes of Plaintiff’s motion for Temporary Restraining Order and Injunctive Relief.

Date: OCTOBER 12, 2004

Respectfully submitted,

PLAINTIFFS BY THEIR ATTORNEY

A handwritten signature in black ink, appearing to read "T. Sharif", written over a horizontal line.

Tammy Sharif

BBO#: 6591334

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**PLAINTIFFS' MEMORANDUM IN SUPPORT OF THEIR
MOTION TO ADD PARTY DEFENDANT**

PLAINTIFFS seeks in their complaint Preliminary and Permanent Injunctive Relief, enjoining Defendant IBPO, Local 364, their agents, servants and employees and those acting in active concert and with actual notice there of, from enforcing the Arbitrator's Award, granted on June 25, 2004, which, is in direct conflict with the Consent Decree enumerated in Castro v. Beecher, 459 F.2d 725 (1st Cir. 1972).

However, Defendant IBPO, Local 364 asserts in their Motion to Postpone Scheduled Hearing of Plaintiffs' Motion for Temporary Restraining that the City of Springfield is an indispensable party to this action. Furthermore, counsel for Defendant IBPO, Local 364 assert that the City of Springfield Police Department is obligated by statute to implement the arbitration award.

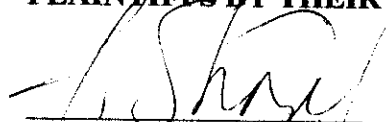
Plaintiffs file this motion to remove any doubt on the question of whether the City of Springfield Police Department should be a party to this action. Therefore, request is hereby made to add the City of Springfield Police Department as New Party Defendants in this case. Since the proposed

party is subject to this Court's jurisdiction and can be served with process, joinder under Civil Rule 19 and 21 is proper.

Date: OCTOBER 12, 2004

Respectfully submitted,

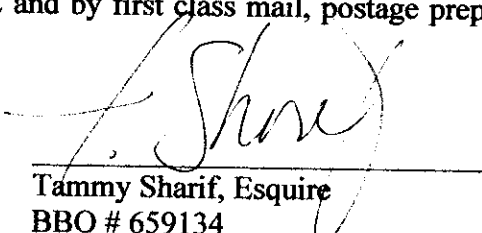
PLAINTIFFS BY THEIR ATTORNEY



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CERTIFICATE OF SERVICE

I, Tammy Sharif, Esquire, do hereby certify that I have served a copy of the foregoing Emergency Motion to add a party and Memorandum In Support of Plaintiffs Emergency Motion to Add a Party this 12TH day of October, 2004, by FAXCIMILE and by first class mail, postage prepaid upon the parties listed below.



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And

City of Springfield Police Department

NEW PARTY DEFENDANT

CIVIL ACTION NO.: 04-CV-30163-MAP

Upon Motion of the Plaintiffs, and for good cause shown, the Motion to Add New Party defendant is hereby granted.

IT IS SO ORDERED.

Presiding Judge